



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2014-0109; Notice 1]

RECARO Child Safety, LLC, Receipt of Petition for
Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA),
Department of Transportation (DOT).

ACTION: Receipt of Petition.

SUMMARY: RECARO Child Safety, LLC (RECARO) has determined that certain RECARO child restraints do not fully comply with paragraph S5.1.1(a) of Federal Motor Vehicle Safety Standard (FMVSS) No. 213, *Child Restraints*. RECARO has filed an appropriate report and was received by NHTSA on July 30, 2014, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*.

DATES: The closing date for comments on the petition is [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and submitted by any of the following methods:

- Mail: Send comments by mail addressed to: U.S.
Department of Transportation, Docket Operations, M-30,

West Building Ground Floor, Room W12-140, 1200 New
Jersey Avenue, SE, Washington, DC 20590.

- Hand Deliver: Deliver comments by hand to: U.S.
Department of Transportation, Docket Operations, M-30,
West Building Ground Floor, Room W12-140, 1200 New
Jersey Avenue, SE, Washington, DC 20590. The Docket
Section is open on weekdays from 10 am to 5 pm except
Federal Holidays.
- Electronically: Submit comments electronically by:
logging onto the Federal Docket Management System
(FDMS) website at <http://www.regulations.gov/>. Follow
the online instructions for submitting comments.
Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no
greater than 15 pages in length, although there is no limit to
the length of necessary attachments to the comments. If comments
are submitted in hard copy form, please ensure that two copies
are provided. If you wish to receive confirmation that your
comments were received, please enclose a stamped, self-addressed
postcard with the comments. Note that all comments received will
be posted without change to <http://www.regulations.gov>,
including any personal information provided.

Documents submitted to a docket may be viewed by anyone at
the address and times given above. The documents may also be

viewed on the Internet at <http://www.regulations.gov> by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the Federal Register published on April 11, 2000, (65 FR 19477-78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the Federal Register pursuant to the authority indicated below.

SUPPLEMENTARY INFORMATION:

I. RECARO's Petition: Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), RECARO submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of RECARO's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

II. Child Restraints Involved: Affected are approximately 78,339 RECARO ProRide child restraints manufactured between April 9, 2010 and July 8, 2014 and approximately 42,303 RECARO Performance RIDE child restraints manufactured between January 15, 2013 and July 8, 2014.

III. Noncompliance: RECARO explains that the noncompliance is that the subject child restraints do not comply with the system integrity requirements of FMVSS No. 213 paragraph S5.1.1(a) when subjected to the dynamic test requirements of FMVSS No. 213 S6.1. During NHTSA's compliance tests with the Hybrid II Six Year Old Dummy and the Hybrid III Weighted Six Year Old Dummy configured to the child restraints with the internal harness and the child restraints attached to the test bench with a lap belt and top tether, the tether belt separated at the attachment point to the child restraints. The top tether belt separation exhibited a complete separation of a load bearing structural element and therefore does not comply with the requirements set forth in FMVSS No. 213 S5.1.1(a).

IV. Rule Text: Paragraph S5.1.1(a) of FMVSS No. 213 requires in pertinent part:

S5.1.1 Child Restraint System Integrity. When tested in accordance with S6.1 each child restraint system shall meet the requirements of paragraphs (a) through (c) of this section.

(a) Exhibit no complete separation of any load bearing structural element and no partial separation exposing either surfaces with a radius of less than 1/4 inch or

surfaces with protrusions greater than 3/8 inch above the immediate adjacent surrounding contactable surface of any structural element of the system.

V. Summary of RECARO's Analyses: RECARO stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

A) FMVSS Safety: RECARO believes that NHTSA's test procedure is in direct violation of the instructions and warnings included with each ProRIDE and Performance RIDE child restraint and would constitute a misuse of the child restraint by the consumer, as seen on page 36 of the ProRIDE/Performance RIDE instruction manuals. RECARO designed and tested the ProRIDE/Performance RIDE child restraints to meet FMVSS No. 213 requirements when tested according to the instruction manuals, which was developed from decades of research and experience in the automotive industry. Installation in accordance with the ProRIDE/Performance RIDE instruction manuals decreases the likelihood of top tether anchor failure from the vehicle. RECARO has limited lower anchor and top tether use for the ProRIDE/Performance RIDE since the inception of the RIDE platform, and recently lowered the LATCH (lower anchors and top tether attachment) limit to 45 pounds from the previously stated 52 pounds to meet current FMVSS No. 213

requirements. RECARO also made mention that NHTSA noted in its 2012 FMVSS No. 213 Final Rule response, limitations were added to the lower anchors to "prevent lower LATCH anchor loads from exceeding their required strength level specified in FMVSS No. 225." RECARO states that they used this same rationale when they developed the RIDE platform in 2010 and concluded that a load limit of 52 pounds would be the safest for consumers.

B) Structural Integrity: RECARO stated that technology has shown repeatedly that collapse, breakage, and crumpling of material minimizes energy and increases the rate of survival for the occupant in the event of a collision. They also stated that vehicles are designed to reduce the rate of acceleration, and more importantly deceleration, of passengers by crushing and breaking to absorb the energy. Thus, RECARO believes that child restraint technology has fallen in-line with vehicle technology in recent years and that other child restraints have been designated "compliant" even though their convertible shell-to-base connection has been designed to crack and break during the peak loading in a crash, due to life-saving decreases in injury criterion values. RECARO further stated that the top tether webbing has been designed to rip and break apart under extreme loads to allow the deceleration time to

increase for the occupant in the crash event. Recaro states that if the injury criterion meets industry standards, then controlled breakage has proven multiple times to be a positive outcome in the event of a vehicle crash, as seen in the RIDE platform.

C) Publications: RECARO cites the "2013 LATCH Manual" published by Safe Ride News Publication which confirms that top tether anchors in vehicles are becoming limited more frequently in the weight to which they can be subjected. The manual states that 16 vehicle models limit the use of top tethers to 65 pounds minus the weight of the child restraint when using the vehicle belt, and 27 vehicle models use the same tether limit rationale when installed with lower anchors. Recaro indicates that this demonstrates that a majority of vehicles on the road instruct consumers to use top tether load limit restrictions that align with RECARO's top tether load limit of 65 pounds minus the 20 pound weight of the child restraint equaling a 45 pound load limit. When installing the child restraint with a top tether and vehicle belt, 26 vehicle models advise to follow the child restraint manufacturer's instructions and an additional 3 vehicle models limit the child's weight to 48 pounds or less.

RECARO states that none of the examples above disagree

with RECARO's warnings and installation instructions and therefore reduce consumer confusion when installing their child restraint. RECARO also states that they have always supported the alignment of child restraint anchorage requirements and vehicle anchorage requirements for LATCH, such as the 2012 Final Rule which amended the testing requirements for lower anchor use above the combined weight of the child and the child restraint. RECARO says they would support NHTSA's review of its current testing requirements for top tether use and the consideration of either implementing similar load limitations for the top tether or requirements for the automotive industry to increase the load to which the tether anchorage can bear.

RECARO referred to documents published in the public docket for the 2012 Final Rule amendment of FMVSS No. 213 to limit lower anchor loads, which by request of NHTSA was performed by ALPHA Technology Associates. In this document, which was used to justify the increased risk of "lower LATCH loads...exceeding their required strength," there is a table depicting top tether anchor loads at the point in which certain makes and models saw a quasi-static failure. In another study, the Transportation Research Center conducted similar testing of vehicles and found

failure of the top tether of two models at 606 and 1,281 pounds of force.

RECARO believes that these documents, which were prepared for NHTSA, give validation to the reasoning by RECARO to limit the use of the top tether.

D) Previous NHTSA Decisions: RECARO is aware that NHTSA has a clear precedent of denying child restraint manufacturers' petitions for inconsequential noncompliance concerning top tether separation. However, RECARO believes that the environment in which those decisions were made has changed. Recaro claims that the methodology it uses to limit top tether loads actually increases safe installations of child restraints by limiting the pounds of force applied and decreasing the chance tether anchor load failures. RECARO also believes that in the event of tether separation the increase to risk of safety is non-existent because the head excursion limits were not exceeded in NHTSA's compliance tests. RECARO indicates that the risk of the subject child restraints impacting objects in the vehicle is identical to, or better than, other compliant child restraints because both restraints meet the same head excursion requirements.

Recaro noted that in an earlier denial of a petition for inconsequential noncompliance NHTSA noted that if it

granted the petition it would be contradictory to NHTSA's mission to promote greater use of LATCH and tether. RECARO believes that this reasoning is no longer relevant due to the recently implemented limits on the use of lower anchors, and thus consumers are now more aware of the limits to the lower anchor and top tether which is consistent with guidance provided in RECARO's owner's manual.

E) RECARO Accident Reports: Recaro states that its accident reports for the four years that the subject restraints have been on the market indicate no incidents of separation in the tether anchorage area. Recaro surmises the reason that tether separation occurs in testing is due to an outdated test bench seat and testing apparatus.

RECARO informed NHTSA that production and distribution of the subject child restraints affected by the noncompliance have been corrected effective July 9, 2014.

In summation, RECARO believes that the described noncompliance of the subject child restraints is inconsequential to motor vehicle safety, and that its petition, to exempt RECARO from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject child restraint that RECARO no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve child restraint distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant child restraint under their control after RECARO notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Jeffrey M. Giuseppe, Acting Director
Office of Vehicle Safety Compliance

Billing Code: 4910-59-P

[FR Doc. 2014-27586 Filed 11/20/2014 at 8:45 am; Publication Date: 11/21/2014]